

AMENDMENTS TO LB 237

Introduced by Judiciary.

1 1. Insert the following new sections:

2 Sec. 2. Section 43-1005, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-1005 The expense of returning juveniles to this state
5 pursuant to the Interstate Compact ~~on~~ for Juveniles shall be paid
6 as follows:

7 (1) In the case of a runaway, under ~~Article IV,~~ the
8 court making the requisition shall inquire summarily regarding the
9 financial ability of the petitioner to bear the expense and if
10 it finds he or she is able to do so shall order that he or
11 she pay all such expenses; otherwise the court shall arrange for
12 the transportation at the expense of the county and order that
13 the county reimburse the person, if any, who returns the juvenile
14 for his or her actual and necessary expenses; and the court may
15 order that the petitioner reimburse the county for so much of
16 said expense as the court finds he or she is able to pay. If the
17 petitioner fails, without good cause, or refuses to pay such sum,
18 he or she may be proceeded against for contempt.

19 (2) In the case of an escapee or absconder, under ~~Article~~
20 ~~V or Article VI,~~ if the juvenile is in the legal custody of the
21 Department of Health and Human Services it shall bear the expense
22 of his or her return; otherwise the appropriate court shall, on
23 petition of the person entitled to his or her custody or charged

1 with his or her supervision, arrange for the transportation at
2 the expense of the county and order that the county reimburse the
3 person, if any, who returns the juvenile, for his or her actual and
4 necessary expenses. In this subdivision appropriate court means the
5 juvenile court which adjudged the juvenile to be delinquent or, if
6 the juvenile is under supervision for another state, ~~under Article~~
7 ~~VII of the compact,~~ then the juvenile court of the county of the
8 juvenile's residence during such supervision.

9 (3) In the case of a voluntary return of a runaway
10 without requisition, ~~under Article VI,~~ the person entitled to his
11 or her legal custody shall pay the expense of transportation and
12 the actual and necessary expenses of the person, if any, who
13 returns such juvenile; but if he or she is financially unable to
14 pay all the expenses he or she may petition the juvenile court of
15 the county of the petitioner's residence for an order arranging for
16 the transportation as provided in subdivision (1) of this section.
17 The court shall inquire summarily into the financial ability of the
18 petitioner, and, if it finds he or she is unable to bear any or all
19 of the expense, the court shall arrange for such transportation at
20 the expense of the county and shall order the county to reimburse
21 the person, if any, who returns the juvenile, for his or her actual
22 and necessary expenses. The court may order that the petitioner
23 reimburse the county for so much of said expense as the court finds
24 he or she is able to pay. If the petitioner fails, without good
25 cause, or refuses to pay such sum, he or she may be proceeded
26 against for contempt.

27 Sec. 3. ARTICLE I. PURPOSE

1 The purpose of this Interstate Compact for the Placement
2 of Children is to:

3 A. Provide a process through which children subject to
4 this compact are placed in safe and suitable homes in a timely
5 manner.

6 B. Facilitate ongoing supervision of a placement, the
7 delivery of services, and communication between the states.

8 C. Provide operating procedures that will ensure that
9 children are placed in safe and suitable homes in a timely manner.

10 D. Provide for the promulgation and enforcement of
11 administrative rules implementing the provisions of this compact
12 and regulating the covered activities of the member states.

13 E. Provide for uniform data collection and information
14 sharing between member states under this compact.

15 F. Promote coordination between this compact, the
16 Interstate Compact for Juveniles, the Interstate Compact on
17 Adoption and Medical Assistance and other compacts affecting the
18 placement of and which provide services to children otherwise
19 subject to this compact.

20 G. Provide for a state's continuing legal jurisdiction
21 and responsibility for placement and care of a child that it would
22 have had if the placement were intrastate.

23 H. Provide for the promulgation of guidelines, in
24 collaboration with Indian tribes, for interstate cases involving
25 Indian children as is or may be permitted by federal law.

26 ARTICLE II. DEFINITIONS

27 As used in this compact,

1 A. "Approved placement" means the public child placing
2 agency in the receiving state has determined that the placement is
3 both safe and suitable for the child.

4 B. "Assessment" means an evaluation of a prospective
5 placement by a public child placing agency in the receiving
6 state to determine if the placement meets the individualized
7 needs of the child, including, but not limited to, the child's
8 safety and stability, health and well-being, and mental, emotional,
9 and physical development. An assessment is only applicable to a
10 placement by a public child placing agency.

11 C. "Child" means an individual who has not attained the
12 age of eighteen (18).

13 D. "Certification" means to attest, declare or swear to
14 before a judge or notary public.

15 E. "Default" means the failure of a member state to
16 perform the obligations or responsibilities imposed upon it by this
17 compact, the bylaws or rules of the Interstate Commission.

18 F. "Home study" means an evaluation of a home environment
19 conducted in accordance with the applicable requirements of the
20 state in which the home is located, and documents the preparation
21 and the suitability of the placement resource for placement of a
22 child in accordance with the laws and requirements of the state in
23 which the home is located.

24 G. "Indian tribe" means any Indian tribe, band, nation,
25 or other organized group or community of Indians recognized as
26 eligible for services provided to Indians by the Secretary of the
27 Interior because of their status as Indians, including any Alaskan

1 native village as defined in section 3(c) of the Alaska Native
2 Claims Settlement Act, 43 U.S.C. 11 section 1602(c).

3 H. "Interstate Commission for the Placement of Children"
4 means the commission that is created under Article VIII of this
5 compact and which is generally referred to as the Interstate
6 Commission.

7 I. "Jurisdiction" means the power and authority of a
8 court to hear and decide matters.

9 J. "Legal Risk Placement" ("Legal Risk Adoption") means
10 a placement made preliminary to an adoption where the prospective
11 adoptive parents acknowledge in writing that a child can be ordered
12 returned to the sending state or the birth mother's state of
13 residence, if different from the sending state, and a final decree
14 of adoption shall not be entered in any jurisdiction until all
15 required consents are obtained or are dispensed with in accordance
16 with applicable law.

17 K. "Member state" means a state that has enacted this
18 compact.

19 L. "Non-custodial parent" means a person who, at the time
20 of the commencement of court proceedings in the sending state, does
21 not have sole legal custody of the child or has joint legal custody
22 of a child, and who is not the subject of allegations or findings
23 of child abuse or neglect.

24 M. "Non-member state" means a state which has not enacted
25 this compact.

26 N. "Notice of residential placement" means information
27 regarding a placement into a residential facility provided to the

1 receiving state including, but not limited to, the name, date, and
2 place of birth of the child, the identity and address of the parent
3 or legal guardian, evidence of authority to make the placement,
4 and the name and address of the facility in which the child
5 will be placed. Notice of residential placement shall also include
6 information regarding a discharge and any unauthorized absence from
7 the facility.

8 O. "Placement" means the act by a public or private child
9 placing agency intended to arrange for the care or custody of a
10 child in another state.

11 P. "Private child placing agency" means any private
12 corporation, agency, foundation, institution, or charitable
13 organization, or any private person or attorney that facilitates,
14 causes, or is involved in the placement of a child from one state
15 to another and that is not an instrumentality of the state or
16 acting under color of state law.

17 Q. "Provisional placement" means a determination made
18 by the public child placing agency in the receiving state that
19 the proposed placement is safe and suitable, and, to the extent
20 allowable, the receiving state has temporarily waived its standards
21 or requirements otherwise applicable to prospective foster or
22 adoptive parents so as to not delay the placement. Completion of
23 the receiving state requirements regarding training for prospective
24 foster or adoptive parents shall not delay an otherwise safe and
25 suitable placement.

26 R. "Public child placing agency" means any government
27 child welfare agency or child protection agency or a private entity

1 under contract with such an agency, regardless of whether they act
2 on behalf of a state, county, municipality or other governmental
3 unit and which facilitates, causes, or is involved in the placement
4 of a child from one state to another.

5 S. "Receiving state" means the state to which a child is
6 sent, brought, or caused to be sent or brought.

7 T. "Relative" means someone who is related to the child
8 as a parent, stepparent, sibling by half or whole blood or
9 by adoption, grandparent, aunt, uncle, or first cousin or a
10 non-relative with such significant ties to the child that they may
11 be regarded as relatives as determined by the court in the sending
12 state.

13 U. "Residential Facility" means a facility providing
14 a level of care that is sufficient to substitute for parental
15 responsibility or foster care and is beyond what is needed for
16 assessment or treatment of an acute condition. For purposes of
17 the compact, residential facilities do not include institutions
18 primarily educational in character, hospitals, or other medical
19 facilities.

20 V. "Rule" means a written directive, mandate, standard,
21 or principle issued by the Interstate Commission promulgated
22 pursuant to Article XI of this compact that is of general
23 applicability and that implements, interprets, or prescribes a
24 policy or provision of the compact. "Rule" has the force and effect
25 of an administrative rule in a member state, and includes the
26 amendment, repeal, or suspension of an existing rule.

27 W. "Sending state" means the state from which the

1 placement of a child is initiated.

2 X. "Service member's permanent duty station" means the
3 military installation where an active duty Armed Services member is
4 currently assigned and is physically located under competent orders
5 that do not specify the duty as temporary.

6 Y. "Service member's state of legal residence" means the
7 state in which the active duty Armed Services member is considered
8 a resident for tax and voting purposes.

9 Z. "State" means a state of the United States, the
10 District of Columbia, the Commonwealth of Puerto Rico, the
11 U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas
12 Islands, and any other territory of the United States.

13 AA. "State court" means a judicial body of a state
14 that is vested by law with responsibility for adjudicating cases
15 involving abuse, neglect, deprivation, delinquency, or status
16 offenses of individuals who have not attained the age of eighteen
17 (18).

18 BB. "Supervision" means monitoring provided by the
19 receiving state once a child has been placed in a receiving state
20 pursuant to this compact.

21 ARTICLE III. APPLICABILITY

22 A. Except as otherwise provided in Article III, Section
23 B, this compact shall apply to:

24 1. The interstate placement of a child subject to ongoing
25 court jurisdiction in the sending state, due to allegations or
26 findings that the child has been abused, neglected, or deprived as
27 defined by the laws of the sending state, provided, however, that

1 the placement of such a child into a residential facility shall
2 only require notice of residential placement to the receiving state
3 prior to placement.

4 2. The interstate placement of a child adjudicated
5 delinquent or unmanageable based on the laws of the sending
6 state and subject to ongoing court jurisdiction of the sending
7 state if:

8 a. the child is being placed in a residential facility in
9 another member state and is not covered under another compact; or

10 b. the child is being placed in another member state and
11 the determination of safety and suitability of the placement and
12 services required is not provided through another compact.

13 3. The interstate placement of any child by a public
14 child placing agency or private child placing agency as defined in
15 this compact as a preliminary step to a possible adoption.

16 B. The provisions of this compact shall not apply to:

17 1. The interstate placement of a child in a custody
18 proceeding in which a public child placing agency is not a party,
19 provided the placement is not intended to effectuate an adoption.

20 2. The interstate placement of a child with a
21 non-relative in a receiving state by a parent with the legal
22 authority to make such a placement provided, however, that the
23 placement is not intended to effectuate an adoption.

24 3. The interstate placement of a child by one relative
25 with the lawful authority to make such a placement directly with a
26 relative in a receiving state.

27 4. The placement of a child, not subject to Article III,

1 1 Section A, into a residential facility by his or her parent.

2 5. The placement of a child with a noncustodial parent
3 provided that:

4 a. The noncustodial parent proves to the satisfaction of
5 a court in the sending state a substantial relationship with the
6 child; and

7 b. The court in the sending state makes a written
8 finding that placement with the noncustodial parent is in the best
9 interests of the child; and

10 c. The court in the sending state dismisses its
11 jurisdiction in interstate placements in which the public child
12 placing agency is a party to the proceeding.

13 6. A child entering the United States from a foreign
14 country for the purpose of adoption or leaving the United States
15 to go to a foreign country for the purpose of adoption in that
16 country.

17 7. Cases in which a U.S. citizen child living overseas
18 with his family, at least one of whom is in the U.S. Armed
19 Services, and who is stationed overseas, is removed and placed in
20 a state.

21 8. The sending of a child by a public child placing
22 agency or a private child placing agency for a visit as defined by
23 the rules of the Interstate Commission.

24 C. For purposes of determining the applicability of this
25 compact to the placement of a child with a family in the Armed
26 Services, the public child placing agency or private child placing
27 agency may choose the state of the service member's permanent duty

1 station or the service member's declared legal residence.

2 D. Nothing in this compact shall be construed to prohibit
3 the concurrent application of the provisions of this compact with
4 other applicable interstate compacts, including the Interstate
5 Compact for Juveniles and the Interstate Compact on Adoption and
6 Medical Assistance. The Interstate Commission may in cooperation
7 with other interstate compact commissions having responsibility
8 for the interstate movement, placement, or transfer of children,
9 promulgate like rules to ensure the coordination of services,
10 timely placement of children, and the reduction of unnecessary or
11 duplicative administrative or procedural requirements.

12 ARTICLE IV. JURISDICTION

13 A. Except as provided in Article IV, Section H, and
14 Article V, Section B, paragraph two and three, concerning private
15 and independent adoptions, and in interstate placements in which
16 the public child placing agency is not a party to a custody
17 proceeding, the sending state shall retain jurisdiction over a
18 child with respect to all matters of custody and disposition of the
19 child which it would have had if the child had remained in the
20 sending state. Such jurisdiction shall also include the power to
21 order the return of the child to the sending state.

22 B. When an issue of child protection or custody is
23 brought before a court in the receiving state, such court shall
24 confer with the court of the sending state to determine the most
25 appropriate forum for adjudication.

26 C. In cases that are before courts and subject to
27 this compact, the taking of testimony for hearings before any

1 judicial officer may occur in person or by telephone, audio-video
2 conference, or such other means as approved by the rules of the
3 Interstate Commission; and Judicial officers may communicate with
4 other judicial officers and persons involved in the interstate
5 process as may be permitted by their Canons of Judicial Conduct and
6 any rules promulgated by the Interstate Commission.

7 D. In accordance with its own laws, the court in the
8 sending state shall have authority to terminate its jurisdiction
9 if:

10 1. The child is reunified with the parent in the
11 receiving state who is the subject of allegations or findings
12 of abuse or neglect, only with the concurrence of the public child
13 placing agency in the receiving state; or

14 2. The child is adopted; or

15 3. The child reaches the age of majority under the laws
16 of the sending state; or

17 4. The child achieves legal independence pursuant to the
18 laws of the sending state; or

19 5. A guardianship is created by a court in the receiving
20 state with the concurrence of the court in the sending state; or

21 6. An Indian tribe has petitioned for and received
22 jurisdiction from the court in the sending state; or

23 7. The public child placing agency of the sending state
24 requests termination and has obtained the concurrence of the public
25 child placing agency in the receiving state.

26 E. When a sending state court terminates its
27 jurisdiction, the receiving state child placing agency shall be

1 notified.

2 F. Nothing in this article shall defeat a claim of
3 jurisdiction by a receiving state court sufficient to deal with an
4 act of truancy, delinquency, crime, or behavior involving a child
5 as defined by the laws of the receiving state committed by the
6 child in the receiving state which would be a violation of its
7 laws.

8 G. Nothing in this article shall limit the receiving
9 state's ability to take emergency jurisdiction for the protection
10 of the child.

11 H. The substantive laws of the state in which an
12 adoption will be finalized shall solely govern all issues relating
13 to the adoption of the child and the court in which the
14 adoption proceeding is filed shall have subject matter jurisdiction
15 regarding all substantive issues relating to the adoption, except:

16 1. when the child is a ward of another court that
17 established jurisdiction over the child prior to the placement; or

18 2. when the child is in the legal custody of a public
19 agency in the sending state; or

20 3. when a court in the sending state has otherwise
21 appropriately assumed jurisdiction over the child, prior to the
22 submission of the request for approval of placement.

23 I. A final decree of adoption shall not be entered in
24 any jurisdiction until the placement is authorized as an "approved
25 placement" by the public child placing agency in the receiving
26 state.

27 ARTICLE V. PLACEMENT EVALUATION

1 A. Prior to sending, bringing, or causing a child to be
2 sent or brought into a receiving state, the public child placing
3 agency shall provide a written request for assessment to the
4 receiving state.

5 B. For placements by a private child placing agency, a
6 child may be sent or brought, or caused to be sent or brought,
7 into a receiving state, upon receipt and immediate review of the
8 required content in a request for approval of a placement in both
9 the sending and receiving state public child placing agency. The
10 required content to accompany a request for approval shall include
11 all of the following:

12 1. A request for approval identifying the child, the
13 birth parent(s), the prospective adoptive parent(s), and the
14 supervising agency, signed by the person requesting approval;
15 and

16 2. The appropriate consents or relinquishments signed by
17 the birth parents in accordance with the laws of the sending state,
18 or, where permitted, the laws of the state where the adoption will
19 be finalized; and

20 3. Certification by a licensed attorney or authorized
21 agent of a private adoption agency that the consent or
22 relinquishment is in compliance with the applicable laws of the
23 sending state, or where permitted the laws of the state where
24 finalization of the adoption will occur; and

25 4. A home study; and

26 5. An acknowledgment of legal risk signed by the
27 prospective adoptive parents.

1 C. The sending state and the receiving state may request
2 additional information or documents prior to finalization of
3 an approved placement, but they may not delay travel by the
4 prospective adoptive parents with the child if the required content
5 for approval has been submitted, received, and reviewed by the
6 public child placing agency in both the sending state and the
7 receiving state.

8 D. Approval from the public child placing agency in the
9 receiving state for a provisional or approved placement is required
10 as provided for in the rules of the Interstate Commission.

11 E. The procedures for making and the request for an
12 assessment shall contain all information and be in such form as
13 provided for in the rules of the Interstate Commission.

14 F. Upon receipt of a request from the public child
15 placing agency of the sending state, the receiving state shall
16 initiate an assessment of the proposed placement to determine its
17 safety and suitability. If the proposed placement is a placement
18 with a relative, the public child placing agency of the sending
19 state may request a determination for a provisional placement.

20 G. The public child placing agency in the receiving state
21 may request from the public child placing agency or the private
22 child placing agency in the sending state, and shall be entitled to
23 receive supporting or additional information necessary to complete
24 the assessment or approve the placement.

25 H. The public child placing agency in the receiving state
26 shall approve a provisional placement and complete or arrange for
27 the completion of the assessment within the timeframes established

1 by the rules of the Interstate Commission.

2 I. For a placement by a private child placing agency,
3 the sending state shall not impose any additional requirements to
4 complete the home study that are not required by the receiving
5 state, unless the adoption is finalized in the sending state.

6 J. The Interstate Commission may develop uniform
7 standards for the assessment of the safety and suitability of
8 interstate placements.

9 ARTICLE VI. PLACEMENT AUTHORITY

10 A. Except as otherwise provided in this compact, no child
11 subject to this compact shall be placed into a receiving state
12 until approval for such placement is obtained.

13 B. If the public child placing agency in the receiving
14 state does not approve the proposed placement then the child
15 shall not be placed. The receiving state shall provide written
16 documentation of any such determination in accordance with the
17 rules promulgated by the Interstate Commission. Such determination
18 is not subject to judicial review in the sending state.

19 C. If the proposed placement is not approved, any
20 interested party shall have standing to seek an administrative
21 review of the receiving state's determination.

22 1. The administrative review and any further judicial
23 review associated with the determination shall be conducted in
24 the receiving state pursuant to its applicable administrative
25 procedures act.

26 2. If a determination not to approve the placement of
27 the child in the receiving state is overturned upon review, the

1 placement shall be deemed approved, provided, however, that all
2 administrative or judicial remedies have been exhausted or the time
3 for such remedies has passed.

4 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

5 A. For the interstate placement of a child made by a
6 public child placing agency or state court:

7 1. The public child placing agency in the sending state
8 shall have financial responsibility for:

9 a. the ongoing support and maintenance for the child
10 during the period of the placement, unless otherwise provided for
11 in the receiving state; and

12 b. as determined by the public child placing agency
13 in the sending state, services for the child beyond the public
14 services for which the child is eligible in the receiving state.

15 2. The receiving state shall only have financial
16 responsibility for:

17 a. any assessment conducted by the receiving state; and

18 b. supervision conducted by the receiving state at the
19 level necessary to support the placement as agreed upon by the
20 public child placing agencies of the receiving and sending state.

21 3. Nothing in this provision shall prohibit public child
22 placing agencies in the sending state from entering into agreements
23 with licensed agencies or persons in the receiving state to conduct
24 assessments and provide supervision.

25 B. For the placement of a child by a private child
26 placing agency preliminary to a possible adoption, the private
27 child placing agency shall be:

1 1. Legally responsible for the child during the period of
2 placement as provided for in the law of the sending state until the
3 finalization of the adoption.

4 2. Financially responsible for the child absent a
5 contractual agreement to the contrary.

6 C. The public child placing agency in the receiving state
7 shall provide timely assessments, as provided for in the rules of
8 the Interstate Commission.

9 D. The public child placing agency in the receiving state
10 shall provide, or arrange for the provision of, supervision and
11 services for the child, including timely reports, during the period
12 of the placement.

13 E. Nothing in this compact shall be construed as to limit
14 the authority of the public child placing agency in the receiving
15 state from contracting with a licensed agency or person in the
16 receiving state for an assessment or the provision of supervision
17 or services for the child or otherwise authorizing the provision of
18 supervision or services by a licensed agency during the period of
19 placement.

20 F. Each member state shall provide for coordination among
21 its branches of government concerning the state's participation
22 in, and compliance with, the compact and Interstate Commission
23 activities, through the creation of an advisory council or use of
24 an existing body or board.

25 G. Each member state shall establish a central state
26 compact office, which shall be responsible for state compliance
27 with the compact and the rules of the Interstate Commission.

1 H. The public child placing agency in the sending state
2 shall oversee compliance with the provisions of the Indian Child
3 Welfare Act, 25 U.S.C. 1901, et seq., for placements subject to the
4 provisions of this compact, prior to placement.

5 I. With the consent of the Interstate Commission, states
6 may enter into limited agreements that facilitate the timely
7 assessment and provision of services and supervision of placements
8 under this compact.

9 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
10 CHILDREN

11 The member states hereby establish, by way of this
12 compact, a commission known as the "Interstate Commission for the
13 Placement of Children." The activities of the Interstate Commission
14 are the formation of public policy and are a discretionary state
15 function. The Interstate Commission shall:

16 A. Be a joint commission of the member states and shall
17 have the responsibilities, powers and duties set forth herein, and
18 such additional powers as may be conferred upon it by subsequent
19 concurrent action of the respective legislatures of the member
20 states.

21 B. Consist of one commissioner from each member state
22 who shall be appointed by the executive head of the state human
23 services administration with ultimate responsibility for the child
24 welfare program. The appointed commissioner shall have the legal
25 authority to vote on policy related matters governed by this
26 compact binding the state.

27 1. Each member state represented at a meeting of the

1 Interstate Commission is entitled to one vote.

2 2. A majority of the member states shall constitute a
3 quorum for the transaction of business, unless a larger quorum is
4 required by the bylaws of the Interstate Commission.

5 3. A representative shall not delegate a vote to another
6 member state.

7 4. A representative may delegate voting authority to
8 another person from their state for a specified meeting.

9 C. In addition to the commissioners of each member state,
10 the Interstate Commission shall include persons who are members
11 of interested organizations as defined in the bylaws or rules of
12 the Interstate Commission. Such members shall be ex officio and
13 shall not be entitled to vote on any matter before the Interstate
14 Commission.

15 D. Establish an executive committee which shall have
16 the authority to administer the day-to-day operations and
17 administration of the Interstate Commission. It shall not have the
18 power to engage in rulemaking.

19 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE
20 COMMISSION

21 The Interstate Commission shall have the following
22 powers:

23 A. To promulgate rules and take all necessary actions to
24 effect the goals, purposes, and obligations as enumerated in this
25 compact.

26 B. To provide for dispute resolution among member states.

27 C. To issue, upon request of a member state, advisory

1 opinions concerning the meaning or interpretation of the interstate
2 compact, its bylaws, rules, or actions.

3 D. To enforce compliance with this compact or the bylaws
4 or rules of the Interstate Commission pursuant to Article XII of
5 this compact.

6 E. To collect standardized data concerning the interstate
7 placement of children subject to this compact as directed through
8 its rules which shall specify the data to be collected, the means
9 of collection and data exchange and reporting requirements.

10 F. To establish and maintain offices as may be necessary
11 for the transacting of its business.

12 G. To purchase and maintain insurance and bonds.

13 H. To hire or contract for services of personnel or
14 consultants as necessary to carry out its functions under the
15 compact and establish personnel qualification policies, and rates
16 of compensation.

17 I. To establish and appoint committees and officers,
18 including, but not limited to, an executive committee as required
19 by Article X of this compact.

20 J. To accept any and all donations and grants of money,
21 equipment, supplies, materials, and services, and to receive,
22 utilize, and dispose thereof.

23 K. To lease, purchase, accept contributions or donations
24 of, or otherwise to own, hold, improve, or use any property, real,
25 personal, or mixed.

26 L. To sell, convey, mortgage, pledge, lease, exchange,
27 abandon, or otherwise dispose of any property, real, personal, or

1 mixed.

2 M. To establish a budget and make expenditures.

3 N. To adopt a seal and bylaws governing the management
4 and operation of the Interstate Commission.

5 O. To report annually to the legislatures, governors,
6 the judiciary, and state advisory councils of the member states
7 concerning the activities of the Interstate Commission during the
8 preceding year. Such reports shall also include any recommendations
9 that may have been adopted by the Interstate Commission.

10 P. To coordinate and provide education, training and
11 public awareness regarding the interstate movement of children for
12 officials involved in such activity.

13 Q. To maintain books and records in accordance with the
14 bylaws of the Interstate Commission.

15 R. To perform such functions as may be necessary or
16 appropriate to achieve the purposes of this compact.

17 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE
18 COMMISSION

19 A. Bylaws

20 1. Within twelve months after the first Interstate
21 Commission meeting, the Interstate Commission shall adopt bylaws to
22 govern its conduct as may be necessary or appropriate to carry out
23 the purposes of the compact.

24 2. The Interstate Commission's bylaws and rules shall
25 establish conditions and procedures under which the Interstate
26 Commission shall make its information and official records
27 available to the public for inspection or copying. The Interstate

1 Commission may exempt from disclosure information or official
2 records to the extent they would adversely affect personal privacy
3 rights or proprietary interests.

4 B. Meetings

5 1. The Interstate Commission shall meet at least once
6 each calendar year. The chairperson may call additional meetings
7 and, upon the request of a simple majority of the member states
8 shall call additional meetings.

9 2. Public notice shall be given by the Interstate
10 Commission of all meetings and all meetings shall be open to the
11 public, except as set forth in the rules or as otherwise provided
12 in the compact. The Interstate Commission and its committees
13 may close a meeting, or portion thereof, where it determines by
14 two-thirds vote that an open meeting would be likely to:

15 a. relate solely to the Interstate Commission's internal
16 personnel practices and procedures; or

17 b. disclose matters specifically exempted from disclosure
18 by federal law; or

19 c. disclose financial or commercial information which is
20 privileged, proprietary, or confidential in nature; or

21 d. involve accusing a person of a crime, or formally
22 censuring a person; or

23 e. disclose information of a personal nature where
24 disclosure would constitute a clearly unwarranted invasion of
25 personal privacy or physically endanger one or more persons; or

26 f. disclose investigative records compiled for law
27 enforcement purposes; or

1 g. specifically relate to the Interstate Commission's
2 participation in a civil action or other legal proceeding.

3 3. For a meeting, or portion of a meeting, closed
4 pursuant to this provision, the Interstate Commission's legal
5 counsel or designee shall certify that the meeting may be
6 closed and shall reference each relevant exemption provision.
7 The Interstate Commission shall keep minutes which shall fully
8 and clearly describe all matters discussed in a meeting and shall
9 provide a full and accurate summary of actions taken, and the
10 reasons therefore, including a description of the views expressed
11 and the record of a roll call vote. All documents considered in
12 connection with an action shall be identified in such minutes. All
13 minutes and documents of a closed meeting shall remain under seal,
14 subject to release by a majority vote of the Interstate Commission
15 or by court order.

16 4. The bylaws may provide for meetings of the Interstate
17 Commission to be conducted by telecommunication or other electronic
18 communication.

19 C. Officers and Staff

20 1. The Interstate Commission may, through its executive
21 committee, appoint or retain a staff director for such period,
22 upon such terms and conditions and for such compensation as the
23 Interstate Commission may deem appropriate. The staff director
24 shall serve as secretary to the Interstate Commission, but shall
25 not have a vote. The staff director may hire and supervise such
26 other staff as may be authorized by the Interstate Commission.

27 2. The Interstate Commission shall elect, from among its

1 members, a chairperson and a vice chairperson of the executive
2 committee and other necessary officers, each of whom shall have
3 such authority and duties as may be specified in the bylaws.

4 D. Qualified Immunity, Defense and Indemnification

5 1. The Interstate Commission's staff director and
6 its employees shall be immune from suit and liability, either
7 personally or in their official capacity, for a claim for damage to
8 or loss of property or personal injury or other civil liability
9 caused or arising out of or relating to an actual or alleged
10 act, error, or omission that occurred, or that such person had
11 a reasonable basis for believing occurred within the scope of
12 Commission employment, duties, or responsibilities; provided, that
13 such person shall not be protected from suit or liability for
14 damage, loss, injury, or liability caused by a criminal act or the
15 intentional or willful and wanton misconduct of such person.

16 a. The liability of the Interstate Commission's staff
17 director and employees or Interstate Commission representatives,
18 acting within the scope of such person's employment or duties for
19 acts, errors, or omissions occurring within such person's state may
20 not exceed the limits of liability set forth under the Constitution
21 and laws of that state for state officials, employees, and agents.
22 The Interstate Commission is considered to be an instrumentality of
23 the states for the purposes of any such action. Nothing in this
24 subsection shall be construed to protect such person from suit
25 or liability for damage, loss, injury, or liability caused by a
26 criminal act or the intentional or willful and wanton misconduct of
27 such person.

1 b. The Interstate Commission shall defend the staff
2 director and its employees and, subject to the approval of the
3 Attorney General or other appropriate legal counsel of the member
4 state shall defend the commissioner of a member state in a civil
5 action seeking to impose liability arising out of an actual or
6 alleged act, error, or omission that occurred within the scope of
7 Interstate Commission employment, duties, or responsibilities, or
8 that the defendant had a reasonable basis for believing occurred
9 within the scope of Interstate Commission employment, duties, or
10 responsibilities, provided that the actual or alleged act, error,
11 or omission did not result from intentional or willful and wanton
12 misconduct on the part of such person.

13 c. To the extent not covered by the state involved,
14 member state, or the Interstate Commission, the representatives or
15 employees of the Interstate Commission shall be held harmless in
16 the amount of a settlement or judgment, including attorney's fees
17 and costs, obtained against such persons arising out of an actual
18 or alleged act, error, or omission that occurred within the scope
19 of Interstate Commission employment, duties, or responsibilities,
20 or that such persons had a reasonable basis for believing occurred
21 within the scope of Interstate Commission employment, duties, or
22 responsibilities, provided that the actual or alleged act, error,
23 or omission did not result from intentional or willful and wanton
24 misconduct on the part of such persons.

25 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE
26 COMMISSION

27 A. The Interstate Commission shall promulgate and publish

1 rules in order to effectively and efficiently achieve the purposes
2 of the compact.

3 B. Rulemaking shall occur pursuant to the criteria
4 set forth in this article and the bylaws and rules adopted
5 pursuant thereto. Such rulemaking shall substantially conform to
6 the principles of the "Model State Administrative Procedures Act,"
7 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such
8 other administrative procedure acts as the Interstate Commission
9 deems appropriate consistent with due process requirements under
10 the United States Constitution as now or hereafter interpreted by
11 the United States Supreme Court. All rules and amendments shall
12 become binding as of the date specified, as published with the
13 final version of the rule as approved by the Interstate Commission.

14 C. When promulgating a rule, the Interstate Commission
15 shall, at a minimum:

16 1. Publish the proposed rule's entire text stating the
17 reason(s) for that proposed rule; and

18 2. Allow and invite any and all persons to submit written
19 data, facts, opinions, and arguments, which information shall be
20 added to the record, and be made publicly available; and

21 3. Promulgate a final rule and its effective date, if
22 appropriate, based on input from state or local officials, or
23 interested parties.

24 D. Rules promulgated by the Interstate Commission shall
25 have the force and effect of administrative rules and shall be
26 binding in the compacting states to the extent and in the manner
27 provided for in this compact.

1 E. Not later than sixty days after a rule is promulgated,
2 an interested person may file a petition in the U.S. District
3 Court for the District of Columbia or in the Federal District
4 Court where the Interstate Commission's principal office is located
5 for judicial review of such rule. If the court finds that the
6 Interstate Commission's action is not supported by substantial
7 evidence in the rulemaking record, the court shall hold the rule
8 unlawful and set it aside.

9 F. If a majority of the legislatures of the member states
10 rejects a rule, those states may be enactment of a statute or
11 resolution in the same manner used to adopt the compact cause that
12 such rule shall have no further force and effect in any member
13 state.

14 G. The existing rules governing the operation of the
15 Interstate Compact on the Placement of Children superseded by this
16 act shall be null and void no less than twelve but no more
17 than twenty-four months after the first meeting of the Interstate
18 Commission created hereunder, as determined by the members during
19 the first meeting.

20 H. Within the first twelve months of operation, the
21 Interstate Commission shall promulgate rules addressing the
22 following:

- 23 1. Transition rules
- 24 2. Forms and procedures
- 25 3. Time lines
- 26 4. Data collection and reporting
- 27 5. Rulemaking

- 1 6. Visitation
- 2 7. Progress reports/supervision
- 3 8. Sharing of information/confidentiality
- 4 9. Financing of the Interstate Commission
- 5 10. Mediation, arbitration, and dispute resolution
- 6 11. Education, training, and technical assistance
- 7 12. Enforcement
- 8 13. Coordination with other interstate compacts
- 9 I. Upon determination by a majority of the members of the

10 Interstate Commission that an emergency exists:

11 1. The Interstate Commission may promulgate an emergency
12 rule only if it is required to:

- 13 a. Protect the children covered by this compact from an
14 imminent threat to their health, safety and well-being; or
- 15 b. Prevent loss of federal or state funds; or
- 16 c. Meet a deadline for the promulgation of an
17 administrative rule required by federal law.

18 2. An emergency rule shall become effective immediately
19 upon adoption, provided that the usual rulemaking procedures
20 provided hereunder shall be retroactively applied to said rule
21 as soon as reasonably possible, but no later than ninety days after
22 the effective date of the emergency rule.

23 3. An emergency rule shall be promulgated as provided for
24 in the rules of the Interstate Commission.

25 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

26 A. Oversight

27 1. The Interstate Commission shall oversee the

1 administration and operation of the compact.

2 2. The executive, legislative and judicial branches of
3 state government in each member state shall enforce this compact
4 and the rules of the Interstate Commission and shall take all
5 actions necessary and appropriate to effectuate the compact's
6 purposes and intent. The compact and its rules shall be binding in
7 the compacting states to the extent and in the manner provided for
8 in this compact.

9 3. All courts shall take judicial notice of the compact
10 and the rules in any judicial or administrative proceeding in a
11 member state pertaining to the subject matter of this compact.

12 4. The Interstate Commission shall be entitled to receive
13 service of process in any action in which the validity of a
14 compact provision or rule is the issue for which a judicial
15 determination has been sought and shall have standing to intervene
16 in any proceedings. Failure to provide service of process to the
17 Interstate Commission shall render any judgment, order or other
18 determination, however so captioned or classified, void as to the
19 Interstate Commission, this compact, its bylaws or rules of the
20 Interstate Commission.

21 B. Dispute Resolution

22 1. The Interstate Commission shall attempt, upon the
23 request of a member state, to resolve disputes which are subject
24 to the compact and which may arise among member states and between
25 member and non-member states.

26 2. The Interstate Commission shall promulgate a rule
27 providing for both mediation and binding dispute resolution for

1 disputes among compacting states. The costs of such mediation or
2 dispute resolution shall be the responsibility of the parties to
3 the dispute.

4 C. Enforcement

5 1. If the Interstate Commission determines that a member
6 state has defaulted in the performance of its obligations or
7 responsibilities under this compact, its bylaws, or rules, the
8 Interstate Commission may:

9 a. Provide remedial training and specific technical
10 assistance; or

11 b. Provide written notice to the defaulting state and
12 other member states, of the nature of the default and the means
13 of curing the default. The Interstate Commission shall specify the
14 conditions by which the defaulting state must cure its default; or

15 c. By majority vote of the members, initiate against a
16 defaulting member state legal action in the United States District
17 Court for the District of Columbia or, at the discretion of the
18 Interstate Commission, in the federal district where the Interstate
19 Commission has its principal office, to enforce compliance with
20 the provisions of the compact, its bylaws or rules. The relief
21 sought may include both injunctive relief and damages. In the
22 event judicial enforcement is necessary the prevailing party shall
23 be awarded all costs of such litigation including reasonable
24 attorney's fees; or

25 d. Avail itself of any other remedies available under
26 state law or the regulation of official or professional conduct.

27 ARTICLE XIII. FINANCING OF THE COMMISSION

1 A. The Interstate Commission shall pay, or provide for
2 the payment of the reasonable expenses of its establishment,
3 organization, and ongoing activities.

4 B. The Interstate Commission may levy on and collect
5 an annual assessment from each member state to cover the cost
6 of the operations and activities of the Interstate Commission
7 and its staff which must be in a total amount sufficient to
8 cover the Interstate Commission's annual budget as approved by its
9 members each year. The aggregate annual assessment amount shall be
10 allocated based upon a formula to be determined by the Interstate
11 Commission which shall promulgate a rule binding upon all member
12 states.

13 C. The Interstate Commission shall not incur obligations
14 of any kind prior to securing the funds adequate to meet the same;
15 nor shall the Interstate Commission pledge the credit of any of
16 the member states, except by and with the authority of the member
17 state.

18 D. The Interstate Commission shall keep accurate accounts
19 of all receipts and disbursements. The receipts and disbursements
20 of the Interstate Commission shall be subject to the audit and
21 accounting procedures established under its bylaws. However, all
22 receipts and disbursements of funds handled by the Interstate
23 Commission shall be audited yearly by a certified or licensed
24 public accountant and the report of the audit shall be included in
25 and become part of the annual report of the Interstate Commission.

26 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

27 A. Any state is eligible to become a member state.

1 B. The compact shall become effective and binding upon
2 legislative enactment of the compact into law by no less than
3 thirty-five states. The effective date shall be the later of
4 July 1, 2007, or upon enactment of the compact into law by
5 the thirty-fifth state. Thereafter it shall become effective and
6 binding as to any other member state upon enactment of the compact
7 into law by that state. The executive heads of the state human
8 services administration with ultimate responsibility for the child
9 welfare program of non-member states or their designees shall
10 be invited to participate in the activities of the Interstate
11 Commission on a nonvoting basis prior to adoption of the compact by
12 all states.

13 C. The Interstate Commission may propose amendments to
14 the compact for enactment by the member states. No amendment shall
15 become effective and binding on the member states unless and until
16 it is enacted into law by unanimous consent of the member states.

17 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

18 A. Withdrawal

19 1. Once effective, the compact shall continue in force
20 and remain binding upon each and every member state; provided that
21 a member state may withdraw from the compact specifically repealing
22 the statute which enacted the compact into law.

23 2. Withdrawal from this compact shall be by the enactment
24 of a statute repealing the same. The effective date of withdrawal
25 shall be the effective date of the repeal of the statute.

26 3. The withdrawing state shall immediately notify
27 the president of the Interstate Commission in writing upon

1 the introduction of legislation repealing this compact in the
2 withdrawing state. The Interstate Commission shall then notify the
3 other member states of the withdrawing state's intent to withdraw.

4 4. The withdrawing state is responsible for all
5 assessments, obligations, and liabilities incurred through the
6 effective date of withdrawal.

7 5. Reinstatement following withdrawal of a member state
8 shall occur upon the withdrawing state reenacting the compact or
9 upon such later date as determined by the members of the Interstate
10 Commission.

11 B. Dissolution of compact

12 1. This compact shall dissolve effective upon the date
13 of the withdrawal or default of the member state which reduces the
14 membership in the compact to one member state.

15 2. Upon the dissolution of this compact, the compact
16 becomes null and void and shall be of no further force or effect,
17 and the business and affairs of the Interstate Commission shall be
18 concluded and surplus funds shall be distributed in accordance with
19 the bylaws.

20 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

21 A. The provisions of this compact shall be severable,
22 and if any phrase, clause, sentence, or provision is deemed
23 unenforceable, the remaining provisions of the compact shall be
24 enforceable.

25 B. The provisions of this compact shall be liberally
26 construed to effectuate its purposes.

27 C. Nothing in this compact shall be construed to prohibit

1 the concurrent applicability of other interstate compacts to which
2 the states are members.

3 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

4 A. Other Laws

5 1. Nothing herein prevents the enforcement of any other
6 law of a member state that is not inconsistent with this compact.

7 B. Binding Effect of the compact

8 1. All lawful actions of the Interstate Commission,
9 including all rules and bylaws promulgated by the Interstate
10 Commission, are binding upon the member states.

11 2. All agreements between the Interstate Commission and
12 the member states are binding in accordance with their terms.

13 3. In the event any provision of this compact exceeds
14 the constitutional limits imposed on the legislature of any member
15 state, such provision shall be ineffective to the extent of the
16 conflict with the constitutional provision in question in that
17 member state.

18 ARTICLE XVIII. INDIAN TRIBES

19 Notwithstanding any other provision in this compact, the
20 Interstate Commission may promulgate guidelines to permit Indian
21 tribes to utilize the compact to achieve any or all of the purposes
22 of the compact as specified in Article I of this compact. The
23 Interstate Commission shall make reasonable efforts to consult with
24 Indian tribes in promulgating guidelines to reflect the diverse
25 circumstances of the various Indian tribes.

26 Sec. 4. Original section 43-1005, Reissue Revised
27 Statutes of Nebraska, is repealed.

- 1 2. On page 30, line 1, strike "43-1005,"; and in line 2
- 2 strike "and 43-1010" and insert "43-1010, 43-1101, and 43-1102".
- 3 3. Renumber the remaining section accordingly.